

(iii) Makes statements impugning the stability and soundness of the Federal savings association.

[54 FR 49492, Nov. 30, 1989, as amended at 60 FR 66717, Dec. 26, 1995. Redesignated at 61 FR 64018, Dec. 3, 1996.]

PART 545—OPERATIONS

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AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1828.

SOURCE: 54 FR 49492, Nov. 30, 1989, unless otherwise noted.

§ 545.1 General authority.

A Federal savings association may exercise all authority granted it by the Home Owners' Loan Act of 1933 ("Act"), 12 U.S.C. 1464, as amended, and its charter and bylaws, whether or not implemented specifically by Office regulations, subject to the limitations and interpretations contained in this part.

§ 545.2 Federal preemption.

The regulations in this part 545 are promulgated pursuant to the plenary and exclusive authority of the Office to regulate all aspects of the operations of Federal savings associations, as set forth in section 5(a) of the Act. This exercise of the Office's authority is preemptive of any state law purporting to address the subject of the operations of a Federal savings association.

§§ 545.3—545.9 [Reserved]

§ 545.10 Savings deposits or shares.

Savings deposits or shares of any Federal savings association which are in compliance with the provisions of subsection (b) of section 5 of title III of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 which amended the Home Owners' Loan Act of 1933, the Federal savings association's charter, and the rules and regulations for the Office, all as now or hereafter in effect, relating to the type, form, return, and maturity thereof are, as to type and form, return, and maturity hereby approved by the Office.

§ 545.11 Issuance of accounts.

(a) Prior to doing business and issuing accounts as defined in § 561.2 of this chapter, a Federal savings association shall obtain and maintain insurance of all its accounts by the Federal Deposit Insurance Corporation.

(b) *General.* Pursuant to section 5(b)(1) of the Act, a Federal savings association may issue accounts as defined in § 561.2 of this chapter. A Federal savings association may establish classes of accounts and specify terms and conditions for such classes of accounts. Amounts deposited in accounts may be in cash or property in which the association is authorized to invest. The authority of a Federal savings association to issue accounts pursuant to this part is subject to any applicable provision of part 563 of this chapter.

(c) *Status and priority of savings deposits and accounts.* In the event of voluntary or involuntary liquidation, dissolution, or winding up of the association, or in the event of any other situation in which the priority of savings

deposits and accounts is in controversy, such savings deposits and accounts shall, to the extent of their withdrawable value, be debts of the Federal savings association having the same priority as debts of general creditors who have no priority, other than from consensual subordination, over other general creditors. Savings deposits of Federal mutual savings associations shall have the same right to share in the remaining assets of the Federal savings association that savings share accounts would have.

§ 545.12 Demand deposit accounts.

(a) Pursuant to 12 U.S.C. 1464(b)(1) (A), (B), a Federal savings association may accept demand deposit accounts from any person.

(b) A Federal savings association shall not pay interest on a demand deposit; however, finders' fees offered in accordance with § 561.16(b) of this chapter are not payments of interest.

(c) For purposes of this section, demand deposits include only those accounts which are payable on demand within the meaning of § 563.6 of this chapter.

[54 FR 49492, Nov. 30, 1989, as amended at 56 FR 59866, Nov. 26, 1991; 58 FR 4312, Jan. 14, 1993]

§ 545.13 Account records.

(a) *Evidence of ownership and account.* A Federal savings association shall comply with the requirements found at §§ 563.1 and 563.170(c)(8) of the chapter. Accounts must be evidenced by a written agreement with transactions confirmed by issuance of a receipt or advice.

(b) *Ownership of record*—(1) *General rule.* A Federal savings association may treat the holder of record of an account as the owner, regardless of any notice to the contrary, until the account is transferred on the Federal savings association's books. Accounts shall be transferable only on the association's books on proper application by the transferee and acceptance of the transferee as accountholder on terms approved by the board of directors.

(2) *Exception.* Paragraph (b)(1) of this section notwithstanding, a Federal savings association may issue negotiable certificate accounts in bearer form

without recording ownership on the books of the Federal savings association: *Provided*, That any provisions of the Federal savings association's charter regarding membership and voting shall not apply to such certificates.

(c) *Use of collecting and paying agent.* A Federal savings association may authorize any bank that is a member of the Federal Deposit Insurance Corporation to prepare, sign and deliver evidence of accounts, to collect and transmit funds obtained from those accounts, and to maintain records with respect to such accounts. The Federal savings association may provide for issuance of duplicate certificates, bond, security and other protection in connection with such activities. A Federal savings association may also authorize any such institution to pay an account according to its terms.

§ 545.14 Determination and distribution of earnings.

(a) *Rates of return.* A Federal savings association may issue savings accounts earning interest at different rates of return, which may be fixed at the time the account is issued or may vary on any basis specified at the time the deposit is accepted, subject to § 563.10 of this chapter.

(b) *Time of distribution.* A Federal savings association may distribute earnings on savings accounts, or designated classes thereof, as provided in its charter and bylaws and the terms of the account.

(c) *Distribution on share accounts.* No distribution of earnings on share accounts may be made under this section until provision has been made for payment of expenses and for the pro rata portion of credits to reserves required by the Federal savings association's charter and by part 567 of this chapter.

[54 FR 49492, Nov. 30, 1989, as amended at 57 FR 33437, July 29, 1992]

§ 545.16 Public deposits, depositaries, and fiscal agents.

(a) *Definitions.* As used in this section—

(1) *Moneys* includes *monies* and has the meaning it has in applicable state law;

(2) *State law* includes actions by a governmental body which has a charter